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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,472	06/13/2001	Kevin T. O'Dougherty	N95.12-0013	5213

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ATMI, INC.  
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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/880,472

Applicant(s)

O'DOUGHERTY ET AL.

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-24 and 30-66 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 32-56 and 66 is/are allowed.  
6) ☒ Claim(s) 1-16, 18-24, 30, 31 and 57-65 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-16, 18-20, 30, 31, 57-60, 64 and 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Garber (US 6,649,829 B2).

Garber discloses a container (10) having a first coupler (111) with a first transmitter (RFID) (111a) and a second coupler (117) with a second transmitter (119), a controller means (34), a wireless connection (12, 14, 18 and 20), the controller means controls a processing of said liquid using process sensing and data acquisition module (36), a cap (125), a pump (see col. 7, lines 15-23),

### ***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-24 and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garber in view of Bartholomew, further in view of Banks, still further in view of Mazza and still further in view of Abrahams.

Garber discloses the liquid handling system described above.

Garber does not expressly disclose a user interface for use with the microprocessor and wireless connections described above, a touch screen used for said interface, a probe, a plurality of drawers, color coding the graphical display of the container matching condition.

Note that a user interface is implied to be used with the microprocessor based control means of Garber and that wireless connections (12, 14, 18 and 20) also imply ready access by a user interface. See col. 9, lines 33-45, for example.

Regarding a touch screen, note that it would have been obvious to place such a device in the system of Garber and that such an input device is considered a functional equivalent of a keyboard and display or a mouse and a display, etc., of which official notice is taken that it is well known in the art. See, for example, Bartholomew (US 6,672,341 B2) which states this at col. 4, lines 4-11.

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Note also col. 9, lines 33-38, which indicates that various control parameters such as temperature and pressure are transmitted by said RFID devices. This implies that a "probe" of some type is embedded in the container so as to come into contact with the liquid.

See Banks, US 6,556,027 B2) which describes a probe which can be used to monitor industrial processes (see abstract, for example).

See also Mazza (US 4,951,512) which describes a probe which breaks a membrane (test-tube cap 21) and inserts a probe (65) so as to contact liquid inside said test-tube.

The suggestion/motivation for placing a probe into the container of Garber would have been to provide information on the condition of the liquid inside the container. See Garber, col. 9, lines 33-38.

Placing several containers in a drawer or on a shelf is considered obvious. See Rudick (US 6,556,889 B2), figures 3b-3d, 5 and 6, for example.

The suggestion would have been to store several liquid containers.

Color coding of the matching condition of the connectors is considered to be obvious in view of Abrahams (US 6,618,714 B1). See col. 8, lines 37-46.

Garber has two connector halves that one ordinarily skilled in the art would recognize as being critical to the operation of the system. Indication of such by use of graphical user interface with a color coded display would have been obvious for use to convey such information.

Therefore, it would have been obvious to obtain the invention as described in Claims 21-24 and 61-63.

***Allowable Subject Matter***

5. Claims 32-56 and 66 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter.

The Examiner notes that the prior art does not disclose or suggest the claimed combination including particularly a liquid dispensing device having a connector with a probe, an RFID device and a rupturable membrane attached to a cap, which is punctured by the probe. The prior art lacks this structure or anything equivalent to it.

***Conclusion***

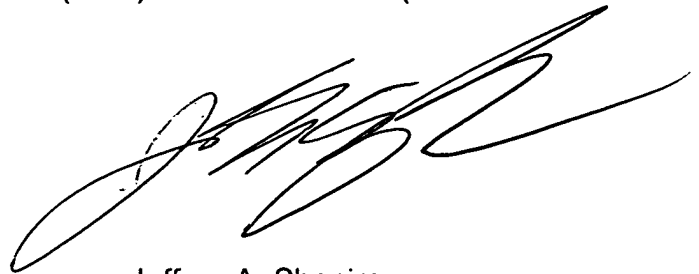
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brisco '175, Wang '060, Gilboa '592, Dolan '162, Grabau '662, Britton '043, Koeninger '681, Brady '146, Matsumoto '263, and WO 00/54724 are all cited as describing the state of the art regarding liquid connectors with RFID devices, various probe devices and RFID devices.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The

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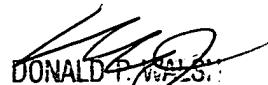
fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

August 22, 2004



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